

ORDER NO. 6021

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Michael Kubayanda, Chairman;
Ashley E. Poling, Vice Chairwoman;
Mark Acton;
Ann C. Fisher; and
Robert G. Taub

Complaint of Christopher S. Searcy

Docket No. C2021-2

ORDER DISMISSING COMPLAINT

(Issued October 27, 2021)

On August 5, 2021, Christopher S. Searcy (Complainant) filed a complaint pursuant to 39 U.S.C. §§ 3662(a) and 403(c), alleging that the Postal Service has acted unlawfully by suspending mail service to his mailbox due to risk to mail carriers caused by dogs.¹ The Commission referred the Complaint to the Postal Service for investigation, pursuant to the Commission's rate and service procedures.² On October 5, 2021, the Postal Service filed a written status report, stating that

¹ Complaint of Christopher S. Searcy, August 5, 2021, at 1 (Complaint). The Complaint also alleges that the Postal Service "violated a substantive property right by denying him his mail without due process" and "violated agency regulation and policy by failing to adhere to the [Postal Service's] Universal Service obligation[.]" Complaint at 1.

² Order Referring Complaint, August 9, 2021 (Order No. 5954); see 39 C.F.R. § 3022.13.

Complainant has not responded to written correspondence regarding attempts to resolve the Complaint.³

At this juncture, it is not clear whether the Complaint states a sufficient basis for Commission jurisdiction under 39 U.S.C. § 3662(a). That section provides the Commission with the jurisdiction to hear rate and service complaints from interested persons who believe that the Postal Service “is not operating in conformance with the requirements of the provisions of sections 101(d), 401(2), 403(c), 404(a), or 601, or this chapter (or regulations promulgated under any of those provisions)....” 39 U.S.C. § 3662(a).

Although the Complaint cites 39 U.S.C. § 403(c), it does not explain why the Postal Service’s decision to suspend service to Complainant’s front door due to risk to mail carriers posed by an unrestrained dog would constitute undue or unreasonable discrimination among users of the mail. The Complaint also does not identify which material issues of fact or law are at issue in determining whether the Postal Service’s conduct violated 39 U.S.C. § 403(c). Under the Commission’s rules, it is not sufficient to state that the Postal Service has violated a statute without supporting explanation.

The Commission’s rules require that complaints “[c]learly identify and explain how the Postal Service action or inaction violates applicable statutory standards or regulatory requirements....” 39 C.F.R. § 3022.10(a)(2). Complaints must also “[s]tate the nature of the evidentiary support that the complainant has or expects to obtain during discovery to support the facts alleged in the complaint[.]” 39 C.F.R. § 3022.10(a)(5). In the instant case, the Complaint does not comply with either of these rules.

The Commission is required by law within 90 days of receiving a complaint to either (i) determine that the complaint raises material issues of fact or law and begin

³ Report of the United States Postal Service in Response to Order No. 5954, October 5, 2021, at 2 (Status Report). On October 5, 2021, the Postal Service filed a motion for late acceptance of its Status Report. Motion of the United States Postal Service for Late Acceptance of its Rule 3023.11(a) Report, October 5, 2021. The motion is granted.

proceedings or (ii) dismiss the complaint. 39 U.S.C. § 3662(b)(1). However, Complainant has not engaged with the Commission's rate and service procedures beyond the initial filing of the Complaint. The Postal Service reports that Complainant has not responded to written correspondence explaining the basis for the Postal Service's policy of instructing mail carriers not to enter yards with one or more unrestrained dogs and offering to resume service to a relocated mailbox or Post Office Box. Status Report at 2. Complainant has also not elected to participate in the process through the Commission's docketing system. Commission action is therefore appropriate at this time because it appears unlikely that Complainant will respond to clarify the issues identified above prior to the 90-day deadline for Commission action.

For the reasons discussed above, the Commission dismisses the Complaint without prejudice. If Complainant chooses to refile, Complainant is directed to include a clear explanation as to how the Postal Service's conduct is in violation of 39 U.S.C. § 403(c) or any of the other statutes enumerated in 39 U.S.C. § 3662(a), identifying any material issues of fact or law to the allegations.

It is ordered:

The Complaint of Christopher S. Searcy, filed August 5, 2021, is dismissed without prejudice.

By the Commission.

Erica A. Barker
Secretary